

These are the minutes of the Regular Session of the City of Adams, WI held on August 2, 2010 in the City Municipal Building.

Meeting was called to order by Mayor Williams. On roll call were Alderpersons Baumgartner, Jensen, Manthey, Newberg, Scott, Suhr, Mayor Williams, Administrator Ellisor, Attorney Pollex, Chief Hanson, and Street Superintendent Mead.

**Motion by Newberg, second by Jensen to approve the minutes of the July 19, 2010 meeting as printed. Roll call vote, all voted aye.**

Petitions and Communications: Myrna Diemert, Adams County Solid Waste Director, discussed their proposal. She stated there had been questions as to why the County did not submit a bid. She stated that the County can only submit proposals and that being the reason that she did not submit a bid and that was their best price offer, once made public. Once made public, it is hard to make any more proposing on that. She assumed that if Council was not happy with what they received from other private haulers that they would come back to the County to renegotiate. She stated that the County would be more than happy to supply waste hauling services, and feels that they have done a good job over the past several years. They had not raised their prices for six years, and due to the economy, they have to charge more and cover their overhead costs. There were other reasons such as we had more tippage, a recycling surcharge fee that they do not get to keep at all, and other reasons. She understands that Clark disposal is the lower bid received. She stated they have worked with Clark over the years and they do a good job. If Clark gets the job, they appreciate being able to serve the City over the years, and appreciates that the City has stayed with the County. She stated back in the 1980's the towns, village and the City asked the County to help out when the City dump was ordered to close by the DNR. She appreciates during most of that time the City had supported the County and hopes that we will continue to work together. She submitted a compromise proposal to Administrator Ellisor today. She hopes to continue to work with the City or just as the County landfill, either way, she believes Clark will do a good job. Jensen asked Ms. Diemert the ownership of the recycle containers. Ms. Diemert stated it was her understanding that the County owns the recycling bins. When they took over the contract six years ago, Waste Management picked up all their bins. She assumes they will be doing the same thing. Apparently, it was not clarified very well in the contract. Mayor Williams stated that he doesn't think it was clarified at all. Going back to the original one, there was a charge of \$4.59 for each of those and that was included in the contract. It wasn't rental because there wasn't nothing after that, so he believes, it is our strong opinion that we paid for those once and those would be ours. That could be challenged, we now that, but that is our opinion. Mayor Williams asked Ms. Diemert after she submitted the letter to us, did Administrator Ellisor contact you and discuss with you the opportunity to bid, resubmit, or adjust. He stated is aware of the discussion to drop the dumpsters would that change the price, and aware of a discussion of a longer term submission of a contract. He wants to make sure that Bob did that so there is no question what-so-ever, you are the two parties that have been talking and that sums it up, that there will be no further discussion that maybe you didn't get the information. Ms. Diemert stated she was aware that there were bids going out, the County can not bid, they can only submit proposals. She submitted her proposal and came down. Bob called her after she submitted the first one and she did lower that proposal another four thousand dollars. She stated yes, she knew there was a bid going on, but they can not bid. Mayor Williams stated she did submit the one, and there was an opportunity to because there had been discussions, and he knows some of the members of the Council have talked with you and he knows that Bob did. But given the County the opportunity to resubmit another proposal, and specifically

a longer one. Ms. Diemert stated she was aware of the bids that were going out and she stated she gave her best offer and didn't feel the need to submit another one.

*Report of Standing Committees:*

**Policy & Procedure Committee:** (The Committee met July 26, 2010)

Motions were made to table the Open Burning Ordinance and Permit Application until further information on the State Statute for Burn Barrels is presented.

Recommendations were made to Approve the Traffic and Parking Ordinance Relating to A-F High School.

Discussion was held relating to the State Statute Amending Operation with Snow Removal Devices Attached.

Discussion was held relating to the State Statute Designed for Public Utility Charges and to bring it back to the next meeting.

Discussion was held relating to the Administrative Services Fee for Delinquent Funds and to bring it back to the next meeting.

Discussion was held relating to the Peddler and Transient Merchants Fee.

**Finance Committee:** (The Committee met July 27, 2010)

In Petitions and Communications a discussion was held regarding the new well and that the budget for it will be available at the next meeting. There will be a large draw on expenses on the well.

A discussion was held regarding obtaining the City Attorney's opinion relating to recycling bin ownership. The garbage/recycling advertising was also discussed.

2010 Budget is keeping in order with the current percentages of the budget.

A discussion was held regarding the EDA project for the well and south business district.

Reviewed payment of bills.

*Report of City Officers:*

**Mayor Williams:** Mayor Williams reported on the situation at the sporting goods store which some guns were stolen and apparently used going into homes. Our officers in working with the Sheriffs Department have been able to retrieve those guns and some of the individuals. The well is coming along and we are waiting for the test results. The park is being used, and good to see. He is concerned about our streets situation from the stand point of the weeds. He knows that we started to spray them, but some are up to eight inches high. He does not want to see that go any farther, it will be a lot more expensive to repair the blacktop if the weeds start to pop it loose.

**Administrator Ellisor:** Stated we did accomplish a quite a bit with the well and the expensive for progress that has been made. We received a recent draw in the amount of \$459,000 that went towards paying Ellis Stone and other interests in completing the well. He suspects a couple more draws before completion and its possible it could come in under budget. If so, he has other ideas that could be eligible. Copies of the disallowance letter were distributed regarding the railroad. It is a form response to the claim and part of the steps you take to maybe litigation. This was on the advisement of the insurance company attorneys. Legal fees are covered; there is a deductible of \$2,000. If the City would be found in the wrong in some cases, the City would have to pay. He had been assured by the Attorneys, to the extent they can, feel the City is in a strong position in our options in this situation.

**Attorney Pollex:** Reported he is working with the insurance company regarding the railroad claim. He is working with Inspector White on enforcement issues, we are in the enforcement stage on five properties. The six trials were successful and the officers were very well prepared. Spoke with the County Juvenile Clerk regarding teen court. He has been working with Administrator Ellisor on the garbage contract issue. Mayor Williams asked about upkeep of properties owned by the County, can the City bill or placed on the tax roll for mowing. Attorney Pollex stated how to handle it would not bill the County directly, but add it to the tax roll with the property.

**Police Chief:** Reported the department received a \$4,000 highway safety grant from the Wisconsin Department of Transportation from participating in the Click it Ticket it and Over the Limit Under Arrest programs. The funds can be used to purchase highway safety equipment. The Under Arrest enforcement will start in August. The department has been working with the Sheriff's department concerning several burglaries. Firearms were stolen and recovered from one burglary. The first Teen Court meeting was held, there was interest in continuing with the court. The next meeting is August 12 at 2:00 p.m. at the law library in the courthouse.

**Street Superintendent:** Reported they are working on line and curb painting, mowing, storm inlet and alley repair and spraying weeds. He stated that 2-3 days of dry weather is needed after they spray. Water samples were received back safe and minor plumbing issues need to be done at the well. Mayor Williams asked how long will we chlorinating when we need to start, and when will Well #4 be cleaned. Street Superintendent Mead stated they will start 5-7 days before startup and on for approximately one month when on line. He and Administrator Ellisor will get prices and hope to get Well #4 cleaned this fall or next spring, the maintenance check is due on it. Mayor Williams stated that he would like him and Bob to report on that at the next meeting.

**New and Unfinished Business:**

**Motion by Suhr, second by Baumgartner to remove from table the Solid Waste Contract. All voted aye.**

Administrator Ellisor stated new information has been distributed, summarizing the scenarios. Also a revised informational form that provides where posted for advertising and where the RFP's were directly mailed to where they weren't and the ones returned. The previous had a couple of omissions in it. The region was pretty well canvassed for seeking proposals. Some expressed interest in it, some that didn't.

**Motion by Suhr, second by Baumgartner to amend the current pending motion on the table and award the Solid Waste Contract to Clark Disposal, Inc. (Clark Disposal three year Garbage/Recycling proposals - \$30,672 per year, \$92,016 three year total)** Mayor Williams asked the Council for their questions. Newberg questioned the recycle collection being picked up once a month. Administrator Ellisor stated pickup will be every two weeks. Newberg asked if we don't have the containers (Recycle Bins), will they supply them. Ellisor replied that he will have Attorney Pollex respond; however, recyclables do not have to be in 18 gallon recycle bins, they can be put in other receptacles. Mayor Williams stated they can be in plastic bags. Newberg stated the problem with plastic bags is if not washed out well, raccoons, stray cats, or other animals will have garbage thrown all over the place. Attorney Pollex stated, understanding the contractual language, he thinks the City's position between he and Mr. Ellisor, and hearing previous comments, after review of the documentations shows: first- there is no reference to any mental language in the original contract; it references 680 recycling bins at \$4.59. Secondly- the actual contractual language found on paragraph 16, page 10, last page, references, it could be clearer, but he feels when

there is no other reference to the contrary, the language where it says additional bins will be sold at such-and-such a price. It's a two part importance to him: One-for the word additional, some bins were previously sold, the 680. That and the use of the word "sold" his opinion is the second strongest part behind the City's position. Third-the one-year proposal that was originally submitted by the County, references replacement bins, 12 of them annually at \$6.50 for one year, that would then indicate that the rental fee becomes \$6.50 a year, which is directly opposite of what the original contract accounted for, which is 3-years for \$4.59. And lastly, it was referenced by the Mayor; there isn't any reference to any rental fees in the annual renewal that the City entered into with the County between 2006 and 2009 through annual renewals. His opinion is the City would be in a strong position to say that the City purchased those.

Newberg questioned the dumpsters, is Clark going to supply the dumpsters. Mayor Williams stated that as it stands right now, we are taking a new position that the dumpsters are the same as what we previously did. Any change to the dumpsters will come at a later date and be approved or disapproved by the City Council. Meaning, that we will continue to have the County pickup the dumpsters and take to the landfill and bring them back. Any changes have to be approved by the City Council. Newberg asked so the dumpsters will still be there. Mayor Williams stated yes. Administrator Ellisor stated in the alternatives that were broken down, the dumpsters would be there, and the only discussion that was held pertaining to the dumpsters was pretty much exclusively having the County provide the dumpsters for the City refuse. He stated the County is in a much better position with their dumpster proposal because, in that category, if Clark Disposal would provide the dumpsters, there would be a fee for the dumpsters itself, and there would be a tipping cost also and they would have to bring it to the landfill. So, Clark Disposal would not be able to provide a comprehensive proposal like the County for the dumpsters. What is being proposed in the interest of cost, is the arrangement, as the Mayor had referred to as far as Council making the decision on that, is to changing the dumpster arrangement that is behind Public Works now, and saving a considerable amount of money going from the current arrangement going to a two dumpster arrangement. Mayor Williams stated, depending how this goes, we will send it to Public Works for them to make a recommendation for what would be best. It would then come to Council to be approved, we don't have any ordinance talking about this. Newberg asked when the representative from Clark was here, she made the comment, even though she is putting this bid in, she stated if the gas price should go up or whatever, we could be hit with an additional charge. If they are proposing a three-year contract, no matter where the prices go, wouldn't we be held to the bid amount? Newberg then asked Ms. Diemert about the amount of their bid. She questioned, is that what the bid is no matter what extra charges might incur on that proposal, not in addition to it. Ms. Diemert stated that is the total for the one year, yes. Ms. Diemert stated most waste hauling contracts do have a clause for fuel increases. Ms. Diemert stated that she checked with Dell Prairie on their contract, and due to those little clauses, their costs went up 33.2% in five years. Mayor Williams stated which means, the County could also go up that much starting next year, because she only has a one year contract. The lady would have to document and prove the need for the additional cost and she has made that statement. Administrator Ellisor stated, any drastic increases of those operation costs essentially triggers a re-opener to be discussed and renegotiated, but also Councils decision to determine if it is a reasonable request or if its not. There were no other questions from the Council. Mayor Williams asked for the roll call. Manthey asked for the motion for what we are voting on. Clerk Winters declared the amended motion on the floor for clarification. Mayor Williams stated that she should not vote on this because she is working there, that is according to Attorney Pollex. **Roll call vote: Newberg, Suhr, and Baumgartner – aye;**

THE MINUTES ARE DRAFT AND SUBJECT TO COUNCIL APPROVAL

**Scott and Jensen – nay, Manthey – abstained. The abstention was then inadvertently counted as an automatic no vote. Declaring a tied vote the Mayor then cast his tie breaking yes vote. With or without the Mayor’s yes vote the motion would have passed 3-2. Motion passed.**

**Motion by Manthey, second by Baumgartner to adopt Ordinance 07-2010 relating to Traffic and Parking. Roll call vote, all voted aye.**

**Motion by Jensen, second by Suhr to approve payment of the bills. Roll call vote, all voted aye.**

**Motion by Jensen, second by Baumgartner to adjourn. All voted aye.**

*Meeting adjourned at 6:56 p.m.*

Respectfully Submitted,  
Janet L. Winters  
Clerk/Treasurer